

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ESET, LLC and ESET, SPOL. S.R.O.,

Petitioners,

v.

FORTRESS INVESTMENT GROUP
LLC,

Respondent.

Miscellaneous Case No. 1:21-mc-197

(Related to Case No. 3:17-cv-00183-CAB-BGS,
pending in the Southern District of California)

**DECLARATION OF NICOLA A. PISANO IN SUPPORT OF MOTION TO COMPEL
FORTRESS INVESTMENT GROUP LLC TO COMPLY WITH SUBPOENA**

I, Nicola A. Pisano, declare and state as follows:

1. I am an attorney at law duly licensed in the States of California and New York, and before this Court. I am a partner at the law firm of Eversheds Sutherland (US) LLP, counsel of record for Petitioners ESET, LLC and ESET, spol. s.r.o. (“ESET”). I make this declaration based upon my personal knowledge and am willing to testify to the truth of the matter asserted herein if called to do so.

2. In response to a subpoena served by ESET, Fortress Investment Group LLC (“Fortress”) has not provided any responsive documents and has not provided a privilege log.

3. *Finjan LLC, v. ESET, LLC*, Case No. 17-cv-0183 CAB (BGS) pending in the Southern District of California (the “Underlying Action”), was initiated by Finjan, Inc., a wholly-owned subsidiary of Finjan Holdings, Inc. The Underlying Action involves allegations of infringement of six patents, each of which has expired. During the course of the litigation, Fortress acquired Finjan Holdings, Inc., which was later renamed Finjan Holdings LLC. Finjan, Inc. was renamed Finjan LLC.

4. Attached hereto as **Exhibit A** is a true and correct copy of highlighted excerpts from a Form 8-K dated July 24, 2020 for Finjan Holdings, Inc.

5. Attached hereto as **Exhibit B** is a true and correct copy of highlighted excerpts from a Form 10-Q for the period ending March 31, 2020 for Finjan Holdings, Inc.

6. Attached hereto as **Exhibit C** is a true and correct copy of ESET, LLC and ESET spol., s.r.o.’s Notice of Subpoena of Fortress Investment Group LLC with attachments.

7. Attached hereto as **Exhibit D** is a true and correct copy of Third Party Fortress Investment Group LLC’s Responses and Objections to Subpoena *Ad Testificandum* and Subpoena *Duces Tecum*.

8. Attached hereto as **Exhibit E** is a true and correct copy of a highlighted Motion to Dismiss filed by Finjan Holdings, Inc. in the matter of *In re Finjan Holdings, Inc. Securities Litigation*, No. 3:20-cv-04289-EMC in the Northern District of California.

9. Attached hereto as **Exhibit F** is a true and correct copy of an email chain exchanged between counsel for ESET and counsel for Fortress.

10. Attached hereto as **Exhibit G** is a true and correct copy of an Order Regarding Request to Toll Dispute Regarding ESET's Rule 45 Subpoena to Fortress, Docket Number 856, filed in the Underlying Action.

11. Attached hereto as **Exhibit H** is a true and correct copy of an Order Granting in Part the Parties' Joint Motion to Amend Case Schedule, Docket Number 852, filed in the Underlying Action.

I declare under the penalty of perjury that the foregoing is true and correct.

Signed this 19th day of February, 2021, in San Diego, California.

/s/ Nicola A. Pisano
NICOLA A. PISANO (NY Bar No. 2315992)
nicolapisano@eversheds-sutherland.us

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

Dated: February 19, 2021

/s/ Nicola A. Pisano
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